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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,840	02/10/2004	Carey J. Naquin	1391-46000	1645
23505	7590	03/15/2006	EXAMINER	
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			BOMAR, THOMAS S	
			ART UNIT	PAPER NUMBER
			3672	
DATE MAILED: 03/15/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,840

Applicant(s)

NAQUIN ET AL.

Examiner

Shane Bomar

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33, 37-39 and 41-59 is/are pending in the application.
- 4a) Of the above claim(s) 58 and 59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 13-26, 32, 33, 37-39, 41-46 and 51-54 is/are rejected.
- 7) ☒ Claim(s) 5, 8-12, 24, 27-31, 47-50 and 55-57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/29/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 58 and 59 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the concept of using the valve mechanism in a method of drilling or controlling a fracture gradient was never before presented in the claims and was therefore never searched for. Furthermore, had these claims been present in the original set of claims, a restriction would have been proper because these claims would require a different search.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 58 and 59 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

2. Claim 43 is objected to because of the following informalities: the recitation of “the valve sleeve” lacks proper antecedent basis, therefore it is assumed that the valve mechanism was being referred to. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6, 7, 13-23, 24, 25, 26, 32, 33, 37-39, 41-46, and 51-54 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 5,215,444 to Bishoff.

Regarding claims 1, 14, 15, 18-20, and 41-43, Bishoff discloses a flowbore fluid temperature control system and associated method for use comprising: a control system body 38 comprising multiple flowbores extending throughout the body; a valve mechanism 48 within the body that controls the flow of a fluid through the flowbore while maintaining the flowbore fluid in the body flowbore; the fluid acts as an actuator to adjust the valve mechanism, although the spring can also be considered the actuator; an operating system 18 that operates the actuator and controls the flowbore fluid pressure; and the temperature of the fluid is controlled by controlling the pressure drop of the fluid across the valve mechanism (see Fig. 1; col. 8, line 18 through col. 9, line 13; and col. 13, line 23 through col. 14, line 55).

Regarding claims 2, 3, 22, 37-39, 44, 51, and 52, the portion of the body 38 that directly surrounds the piston 48 acts as a sleeve with multiple ports therethrough that allow fluid to flow into annular areas delineated by paths 58, 54, and 110 (see Fig. 1)

Regarding claims 4 and 23, it is notoriously known in the art to provide sliding pistons with seals to prevent flow past the piston (see for example the US patent 4,176,630 to Elmer).

Regarding claims 6, 7, 25, 26, 45, 46, 53, and 54 springs interact with the piston (see Figs. 1-4).

Regarding claims 13, 32, and 33, pump 20 controls the fluid pressure and operating system 18 operates the actuator and controls the flowbore fluid pressure (see Fig. 1).

Regarding claims 16, 17, and 21, bar 47 and orifice assembly 68 are single position valve mechanisms also used in valve 36 (see Fig. 1).

Allowable Subject Matter

5. Claims 5, 8-12, 24, 27-31, 47-50, and 55-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments, see pages 19-22, filed December 22, 2005, with respect to the rejection(s) of claim(s) 1-11, 13-30, 32-46, and 51-54 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bishoff.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

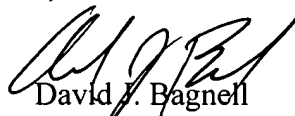
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shane Bomar whose telephone number is 571-272-7026. The examiner can normally be reached on Monday - Thursday from 6:30am to 4:00pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672



tsb
March 6, 2006